

REMARKS

Claims 40-71 are in this application, claims 1-39 having been canceled and claims 40-71 having been added by this amendment. Claims 1-39 were subject to a restriction requirement.

The new claims

Claim 40 is former claim 1 rewritten to limit the formula to $Y = O$ and $Z = N$ (group IV of the restriction requirement) and with unnecessary variables (Y, Z, R^7, R^8) deleted; and claims 41-71 parallel former claims 2-39 rewritten to be dependent on claim 40 and with unnecessary variables and nonelected claims deleted. Thus, claims 41 and 42 parallel former claims 2 and 3, claims 43-48 parallel former claims 5-10; claims 49-60 parallel former claims 13-24, and claims 61-71 parallel former claims 29-39.

The restriction requirement

Claims 1-39 were subject to a restriction requirement, in which the compounds (and associated compositions) were divided into six groups: I ($Y=N, Z=N$), II ($Y=N, Z=C$), III ($Y=S, Z=N$), IV ($Y=O, Z=N$), V ($Y=S, Z=C$), and VI ($Y=O, Z=C$); the compositions and methods of treatment employing more than one active ingredient formed group VII, and the methods of treatment were divided into two further groups: VIII (allergic, inflammatory, or autoimmune disease) and IX (leukocyte migration).

With respect to the compound groups I-VI, the Examiner alleged patentable distinctness between the compounds of the various groups; with respect to group VII, the Examiner alleged patentability dependent on the combination of active ingredients as opposed to the single active ingredient of the compositions of groups I-VI; and with respect to the method of use claims of groups VIII and IX, the Examiner alleged distinctness between product and process of use. However, the Examiner indicated that process claims including all the limitations of a patentable product would be re-joined with allowable product claims.

Applicants elect for examination the compounds of group IV, compounds where $Y=O$ and $Z=N$; and the new claims have been limited in accordance with that election, which is made without traverse.

Applicants have further limited the new composition and method of use claims in accordance with the election, so these claims include all the limitations of the product claims.

With respect to claims 66 and 68 (paralleling former claims 34 and 36 – composition containing a compound of the invention and another active ingredient, and method of treatment using a compound of the invention and another active ingredient), Applicants respectfully submit that while such claims might be patentable even if claims to compositions or methods using only a compound of the invention were not (because, as the Examiner points out, of the type and amount of the active ingredients, and their interaction and co-action, e.g. synergism), these claims will inherently be patentable if the corresponding claims not also referring to another active ingredient (claims 65 and 67) are patentable because they are properly dependent from those claims and contain a further limitation. Thus, if claims 65 and 67 are found to be allowable, claims 66 and 68 will also be allowable without consideration of their possible separate patentability. Accordingly, Applicants request that claims 66 and 68 be rejoined if claims 65 and 67 are found allowable.

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Conclusion

Examination and allowance of claims 40-71 are respectfully requested.

Applicants reserve the right to file divisional and/or continuation application(s) to the subject matter canceled in response to the restriction requirement.

Respectfully submitted,



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